IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

RP.No. 648 of 2007(B)

AGAINST THE JUDGEMENT/ORDER IN WPC.17444/2007 Dated 15/06/2007

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PETITIONER:

FATHIMAKUTTY.P., U.P.S.A.(FULL TIME JUNIOR)(ARABIC), A.M.M.HIGH SCHOOL, PULIKKAL, MALAPPURAM (AGED 36, W/O.BASHEER.P., PUTHIYOTTIL HOUSE, THIRUTHIYARD, VAZHAYOOR P.O.,MALAPPURAM).

BY ADV. SRI.K.S.MADHUSOODANAN
SRI.T.V.JAYAKUMAR NAMBOODIRI

RESPONDENTS: RESPONDENTS:
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1. STATE OF KERALA TO BE REPRESENTED BY SECRETARY, EDUCATION DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. DISTRICT EDUCATION OFFICER, MALAPPURAM.

3. MANAGER, AMM HIGH SCHOOL AND LPS, PULIKKAL, MALAPPURAM.

4. HEADMASTER,AMM HIGH SCHOOL, PULIKKAL, MALAPPURAM.

5. SAMEERA T.A., D/O.LATE MUHAMMED T.A, AZHUKAT HOUSE, KOTTAPURANI, ANTHIYOOR KUNNU P.O. VIA PULIKKAL MALAPPURAM.

BY ADV. SRI.R.JAYACHANDRAN
SRI.K.RAMAKUMAR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A.K.BASHEER, J.

R.P. No.648 OF 2007 in
W.P.(C)No.17444 OF 2007

Dated this the 6th day of August, 2007

ORDER

Writ petitioner in W.P.(C)17444/07 has preferred this review petition contending inter alia that respondent no.2 who had appeared in person before the court had made an incorrect statement of fact with regard to the number of posts of Language Teacher (Arabic) available in the school in question. It is contended by the petitioner that three posts were infact available in the school whereas the Assistant Educational officer had submitted that there were only two. Learned counsel invites my attention to Annexure-II order issued by the District Educational Officer, Malappuram, respondent no.2, in this connection.

2. When this review petition came up before this court on July 18, 2007, respondent no.2 was present with the file. Thereafter, he has filed a counter affidavit in which it is averred by him that there were four teachers working in the school at that time including the petitioner. There were three sanctioned posts, one in Oriental Wing and the other two in Academic wing. The teachers were M.Muhammed, Sahala.P.K., Fathimakutty.P (petitioner) and

Sameera (respondent no.5). It is further averred by respondent no.2 that petitioner could have been allowed to continue in the school, since there were three sanctioned posts. But the manager had allowed Sameera (respondent no.5) who had been appointed as Junior Language Teacher in the school on June 1, 2005 to continue. In short, the affidavit filed by respondent no.2 clearly indicates that petitioner is entitled to continue in the school.

3. In this context, it may also be noticed that when the writ petition had come up for consideration on June 11, 2007 the learned Government Pleader, after getting instruction from respondent no.2, had submitted that he had been informed by respondent no.2 that the Manager was instructed to allow the petitioner to continue in the school. But since the manager had not taken any action, respondent no.2 was directed to find out what action had been taken. It was thereafter that he had appeared this court and made his submissions, recording which the writ petition was closed.

4. But, now since the same officer has admitted his mistake and stated that there are infact three posts of Language Teacher in

that school, petitioner being the 3rd candidate could be accommodated there. The officer has also informed the court that the mistake had obviously arisen, since he had assumed charge only on the previous day.

In the above facts and circumstances, review petition is allowed and it is clarified that the petitioner shall be allowed to continue in the school where he has been working. It will be open to the petitioner, the manager and respondent no.5 to raise their respective contentions before the competent authority at the time when the proposal for appointment of respondent no.5 is being considered. It is made clear that I have not considered the merit of the contentions raised by the manager or respondent no.5 at this stage.

A.K.BASHEER, JUDGE

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